

C. DUKES SCOTT  
EXECUTIVE DIRECTOR

P.O. Box 11263  
Columbia, S.C. 29211



Phone: (803) 737-0800  
Fax: (803) 737-0801

DAN F. ARNETT  
CHIEF OF STAFF

October 17, 2006

**VIA E-FILING & HAND DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

Re: Complaint of Time Warner Cable, Information Services (South Carolina), LLC, St. Stephen Telephone Company, Farmers Telephone Cooperative, Inc., Home Telephone Company, Inc., PBT Telecom, Inc., Fort Mill Telephone Company,  
**DOCKET NOS. 2005-402-C, 2005-403-C, 2005-404-C, 2005-405-C, 2005-406-C**

Dear Mr. Terreni:

Enclosed please find the original and one copy of the Office Of Regulatory Staff's Response To Time Warner Cable Information Services, LLC'S Petition For Reconsideration Of Order No. 2006-515 in the above referenced docket.

Please note that the attached documents are exact duplicates, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

By copy of this letter we are also serving all other parties of record. Please let me know if you have any questions.

Sincerely,

Nanette S. Edwards

NSE/jea  
Enclosures

cc: Frank R. Ellerbe III, Esquire  
M. John Bowen Jr., Esquire

STATE OF SOUTH CAROLINA

BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NOS. 2005-402-C, 2005-403-C, 2005-404-C, 2005-405-C, 2005-406-C

In Re:	)	
Complaint of Time Warner Cable	)	
Information Services (South	)	
Carolina), LLC,	)	
	)	<b>OFFICE OF REGULATORY</b>
	)	<b>STAFF'S RESPONSE TO TIME</b>
	)	<b>WARNER CABLE</b>
Complainant/Petitioner	)	<b>INFORMATION SERVICES</b>
	)	<b>(SOUTH CAROLINA), LLC'S</b>
v.	)	<b>PETITION FOR RECONSIDERATION</b>
	)	<b>OF ORDER NO. 2006-515</b>
St. Stephen Telephone Company,	)	
	)	
Defendant/Respondent	)	
	)	
Complaint of Time Warner Cable	)	
Information Services (South	)	
Carolina), LLC,	)	
	)	
Complainant/Petitioner	)	
v.	)	
	)	
Farmers Telephone Cooperative, Inc.,	)	
	)	
Defendant/Respondent	)	
	)	
Complaint of Time Warner Cable	)	
Information Services (South	)	
Carolina), LLC,	)	
	)	
Complainant/Petitioner	)	
v.	)	
	)	
Home Telephone Company, Inc.,	)	
	)	
Defendant/Respondent	)	
	)	

Complaint of Time Warner Cable )  
Information Services (South )  
Carolina), LLC, )  
) )  
Complainant/Petitioner )  
v. )  
) )  
PBT Telecom, Inc., )  
) )  
Defendant/Respondent )  
\_\_\_\_\_ )

Complaint of Time Warner Cable )  
Information Services (South )  
Carolina), LLC, )  
) )  
Complainant/Petitioner )  
v. )  
) )  
Fort Mill Telephone Company, )  
) )  
Defendant/Respondent )  
\_\_\_\_\_ )

The Office or Regulatory Staff (“ORS”) submits this Response to the Petition for Reconsideration of Public Service Commission (“PSC”) Order Number 2006-515 filed by Time Warner Cable Information Services (South Carolina), LLC (“TWCIS”) on October 2, 2006.

### **The Order’s Interpretation of 47 U.S.C. § 251**

TWCIS argues that the PSC incorrectly interpreted 47 U.S.C. § 251. The disputed language in the Commission’s Order reads as follows:

“Sections 251(a), (b), and (c) each impose interconnection duties upon incumbent carriers. Rural carriers are exempt from the obligations of subsection (c), but must still negotiate interconnection with other telecommunications carriers upon request under subsections (a) and (b), *if the Commission determines that the rural exemption does not apply.*”

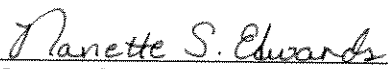
Order No. 2006-515, p. 8-9 (emphasis added). ORS agrees with TWCIS that the statement would be a correct statement of the law if the italicized clause was omitted. 47 U.S.C. § 251 (a) imposes a basic interconnection duty on all telecommunications carriers, and there is no subsequent subsection that permits a state commission to modify or suspend that duty. Subsection (b) imposes additional interconnection duties that *remain in force* until a state commission modifies or suspends them upon petition by a rural carrier as described in § 251(f)(2). Subsection (c)'s duties *do not arise* until a rural carrier's exemption has been terminated by the state commission per § 251(f)(1). ORS agrees that the Commission should clarify its language to avoid confusion in future interconnection proceedings.

This error, however, was harmless to TWCIS because it is not entitled to any § 251 rights unless it is found to be a "telecommunications carrier" offering "telecommunications services" under the Act – a finding this Commission has not specifically made in light of the FCC's *Vonage Order*.

### **Conclusions**

ORS respectfully submits that the language in Order No. 2006-515 interpreting 47 U.S.C. § 251, as discussed above, should be clarified to avoid confusion.

Dated this 16<sup>th</sup> day of October, 2006.

  
\_\_\_\_\_  
Nanette S. Edwards  
Jeffrey M. Nelson  
**OFFICE OF REGULATORY STAFF**  
Post Office Box 11263  
Columbia, South Carolina 29211  
Phone: (803) 737-0575  
Fax: (803) 737-0895  
nsedwar@regstaff.sc.gov

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NOS. 2005-402-C, 2005-403-C, 2005-404-C, 2005-405-C, 2005-406-C**

In Re: )  
Complaint of Time Warner Cable )  
Information Services (South )  
Carolina), LLC, )

**CERTIFICATE  
OF SERVICE**

Complainant/Petitioner )

v. )

St. Stephen Telephone Company, )

Defendant/Respondent )

---

Complaint of Time Warner Cable )  
Information Services (South )  
Carolina), LLC, )

Complainant/Petitioner )

v. )

Farmers Telephone Cooperative, Inc., )

Defendant/Respondent )

---

Complaint of Time Warner Cable )  
Information Services (South )  
Carolina), LLC, )

Complainant/Petitioner )

v. )

Home Telephone Company, Inc., )

Defendant/Respondent )

---

Complaint of Time Warner Cable )


Information Services (South  
Carolina), LLC, )  
)  
)  
Complainant/Petitioner )  
v. )  
)  
PBT Telecom, Inc., )  
)  
)  
Defendant/Respondent )  
\_\_\_\_\_ )

Complaint of Time Warner Cable )  
Information Services (South )  
Carolina), LLC, )  
)  
Complainant/Petitioner )  
v. )  
)  
Fort Mill Telephone Company, )  
)  
)  
Defendant/Respondent )  
\_\_\_\_\_ )

This is to certify that I, Jennifer E. Anderson, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **OFFICE OF REGULATORY STAFF'S RESPONSE TO TIME WARNER CABLE INFORMATION SERVICES, LLC'S PETITION FOR RECONSIDERATION OF ORDER NO. 2006-515** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

**Frank R. Ellerbe III**  
Robinson, McFadden & Moore, P.C.  
Post Office Box 944  
Columbia, SC 29202

**M. John Bowen Jr.**  
McNair Law Firm, P.A.  
Post Office Box 11390  
Columbia, SC 29211

  
\_\_\_\_\_  
Jennifer E. Anderson

October 17, 2006  
Columbia, South Carolina